

DEPARTMENT OF LABOR AND INDUSTRY

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Subchapter 1

Organizational Rule

24.201.101 BOARD ORGANIZATION (1) The board of public accountants hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title with the following exception:

(a) The organizational chart does not indicate that the board of public accountants is subject to the overall supervision and control of the department or the director of that department. The autonomy of the board of public accountants is clearly preserved by law and no intent exists to change that fact. (History: 37-50-201, 37-50-203, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, Eff. 6/30/84; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapter 2

Procedural Rules

24.201.201 PROCEDURAL RULES (1) The board of public accountants hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-50-201, 37-50-203, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.202 PUBLIC PARTICIPATION RULES (1) The board of public accountants hereby adopts and incorporates by this reference, the public participation rules of the department of commerce as listed in chapter 2 of Title 8. (History: 37-50-201, 37-50-203, MCA; IMP, 2-3-102, MCA; NEW, 1980 MAR p. 1541, Eff. 5/30/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapter 3

Definitions

24.201.301 DEFINITIONS (1) For purposes of these rules the following terms have the meanings indicated:

(a) "Client" - The person, entity, or enterprise whether organized for profit or not, which retains a permit holder for the performance of professional services. A client may be an entity served by governmental or nongovernmental agencies performing services similar to public accounting firms.

(b) "Firm" - A proprietorship, partnership or professional corporation engaged in the practice of public accounting.

(c) "Report" - when used with reference to financial statements, means an opinion, report or other form of language which states or implies assurance as to the reliability of any financial statements (examples include audits, reviews and compilations) and which also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that he or the firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence.

(d) "Certificate holder" - A person holding a CPA certificate issued by the board pursuant to 37-50-302, MCA.

(e) "License holder" - A person holding a license issued by the board pursuant to 37-50-303, MCA.

(f) "Permit holder" - A person holding an annual permit to practice public accounting issued by the board pursuant to 37-50-314, MCA.

(g) "Licensee" - A certificate, license, or permit holder.

(h) "Professional services" - Any services performed or offered to be performed by a permit holder for a client in the course of the practice of public accountancy.

(i) "Financial statement" - A presentation of financial data, derived from accounting records and intended to communicate an entity's economic resources or obligations at a point in time, or the changes therein for a period of time. Financial presentations included in tax returns are not financial statements for purposes of this definition. Financial statements include, but are not limited to, the following:

- (i) balance sheet,
- (ii) statement of income,
- (iii) statement of retained earnings,
- (iv) statement of changes in financial position,
- (v) statement of changes in owners equity,
- (vi) financial forecasts, projections and similar presentations,
- (vii) statement of assets and liabilities (with or without owners' equity accounts),
- (viii) statement of revenue and expenses,
- (ix) summary of operations,
- (x) statement of operations by product lines,
- (xi) statement of cash receipts and disbursements,
- (xii) statement of cash flows. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapter 4

General Provisions

24.201.401 BOARD MEETINGS (1) The chairman shall preside at all meetings and shall perform such duties as the board may direct. At any meeting at which the chairman is absent, the members present will, by a majority vote, select a temporary chairman for the meeting.

(2) The board shall hold an annual meeting prior to September each year for purposes of electing officers from among its members, each for a term of one year, or until a successor has been duly elected and qualified.

(3) Meetings shall be held, after reasonable notice, at the call of the chairman or of any two members of the board. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-201, 37-50-203, 37-50-315, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.402 through 24.201.404 reserved

24.201.405 COMMITTEES (1) The board may request and appoint committees of outside representatives to assist them in carrying out their duties. (History: 37-50-201, MCA; IMP, 37-50-201, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.406 through 24.201.409 reserved

24.201.410 FEE SCHEDULE (1) The following fees have been established by the board for services or privileges rendered by the board, or for services rendered by contractors of the board:

(a) Certified public accountant out-of-state application	\$100
(b) Transfer of grades (all parts)	100
(c) Annual fee for nonpermit holder	45
(d) Annual fee for permit to practice (regular permit or special practice permit)	90
(e) Reissue of certificate or license	15
(f) Application as candidate for examination	25
(g) Late fee for failure to comply with CPE requirements in accordance with ARM 24.201.2106	100
(h) Late fee for failure to submit CPE reporting form within one month following the end of the CPE reporting year	25
(i) Fees for PMP reviews:	
(i) audits	450
(ii) reviews	225
(iii) compilations with disclosures	225
(iv) compilations without disclosures	115
(j) Late fee for failure to timely file quarterly reports by practice units under pre-issuance review	100
(k) Late fee for failure to timely file profession monitoring program reports	
(i) less than 31 days late	100
(ii) more than 30 days late	500

(2) Additional standardized fees are specified in ARM 24.101.403.

(3) Fees paid directly to a contractor are not refundable by the board.

(History: 37-1-134, 37-50-203, 37-50-204, 37-50-323, MCA; IMP, 37-1-134, 37-1-141, 37-50-204, 37-50-314, 37-50-323, MCA; Eff. 12/31/72; AMD, Eff. 7/5/75; AMD, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1477, Eff. 9/16/82; AMD, 1983 MAR p. 345, Eff. 4/29/83; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1992 MAR p. 2136, Eff. 9/25/92; EMERG, AMD, 1996 MAR p. 2280, Eff. 8/23/96; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 1998 MAR p. 463, Eff. 2/13/98; AMD, 1999 MAR p. 1508, Eff. 6/4/99; AMD, 2001 MAR p. 2240, Eff. 11/9/01; AMD, 2002 MAR p. 3415, Eff. 12/13/02; AMD, 2004 MAR p. 643, Eff. 3/26/04; TRANS, from Commerce, 2005 MAR p. 2668; AMD, 2006 MAR p. 83, Eff. 12/23/05; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

Rule 24.201.411 reserved

24.201.412 FEE ABATEMENT (1) The Board of Public Accountants adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, 37-17-202, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2005 MAR p. 2671, Eff. 12/23/05.)

Rules 24.201.413 and 24.201.414 reserved

24.201.415 USE OF CPA/LPA DESIGNATION (1) Certificate or license holders not otherwise in the practice of public accounting, but providing financial or consulting services to the public, must have permits to practice, if they hold themselves out to the public in any manner as a CPA or LPA.

(2) Certificate or license holders working for nonpublic accounting employers shall not use their CPA or LPA designations when presenting employer reports to outside parties unless they maintain a permit to practice. (History: 37-1-131, 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1990 MAR p. 584, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapter 5

Licensing And Examinations

24.201.501 EDUCATION REQUIREMENTS (1) A candidate who has a previously approved and unexpired application for an examination administered prior to or in May, 1996, or a candidate who applied by transfer of grades for an examination prior to or in May of 1996, must, prior to certification or licensure, have graduated from a college or university accredited to offer:

- (a) a baccalaureate degree, with a concentration in accounting; or
- (b) a baccalaureate degree, with a concentration other than accounting, if supplemented by experience and the board determines that an equivalent education has been achieved; or

- (c) a baccalaureate degree, with a concentration other than accounting, if supplemented by related courses in other areas of business administration and the board determines that an equivalent education has been achieved;

- (d) a concentration in accounting will be interpreted by the board to include 24 semester hours (36 quarter hours) of accounting, auditing and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics and finance. The 18 semester hours (27 quarter hours) shall include no more than six semester hours (nine quarter hours) in one area.

- (e) supplemental experience will be interpreted by the board to be five years of employment by a public accounting firm, or five years of employment in industry or government in a responsible financial position; and the board determines that an equivalent accounting education has been achieved.

- (f) a concentration, other than accounting if supplemented by related courses in other areas of business will be interpreted by the board to include 12 semester hours (18 quarter hours) of accounting, auditing and tax courses and nine semester hours (14 quarter hours) in other areas of business such as business law, management, marketing, economics and finance. The nine semester hours (14 quarter hours) shall include no more than three semester hours (five quarter hours) in one area.

(2) A candidate for examination, to be approved to sit for the examination, who submits an initial application for an examination administered in November, 1996 or May, 1997, or a candidate who applies by transfer of grades for November, 1996 or May, 1997 examinations, must have completed 24 semester hours (36 quarter hours) of accounting, auditing and tax courses, and 18 semester hours (27 quarter hours) in other areas of business such as business law, management, marketing, economics and finance. The 18 semester hours (27 quarter hours) shall include no more than six semester hours (nine quarter hours) in one area.

(a) Subsequent to successful passage of the exam, the candidate, to be certified or licensed as a public accountant, must have graduated from a college or university accredited to offer a baccalaureate degree.

(3) A candidate submitting an initial application for an examination administered in November, 1997 or thereafter, or a candidate whose approved application for examination has expired and is making reapplication for an examination in November, 1997 or thereafter, or a candidate who applies by transfer of grades for the November, 1997 examination or thereafter to be approved to sit for the examination, must have completed at least 24 semester hours of upper division or graduate level accounting courses including at least one course in each of the following subject areas:

- (a) financial accounting;
- (b) auditing;
- (c) taxation;
- (d) management accounting;

(e) has at least 24 semester hours in business related courses. Examples of business related courses include information systems, business law, finance, economics, marketing, ethics, organizational behavior, quantitative applications in business and communication skills;

(f) an upper division course is normally defined as a course taken at the junior or senior level and would exclude introductory courses in accounting and economics; and

(g) subsequent to successful passage of the examination, the candidate, to be certified or licensed as a public accountant, must have graduated from a college or university accredited to offer a baccalaureate degree:

(i) with an accounting concentration or its equivalent as determined by the board; and

(ii) with at least 150 semester hours of credit, including those earned toward the baccalaureate degree or its equivalent.

(4) An accredited school is one that is accredited by the American assembly of collegiate schools of business, or one of the following regional accrediting agencies:

- (a) middle states association of colleges and secondary schools;
- (b) New England association of schools and colleges;
- (c) north central association of colleges and secondary schools;
- (d) northwest association of schools and colleges;
- (e) southern association of schools and colleges; or
- (f) western association of schools and colleges.

(5) Graduates of foreign schools shall have their education evaluated by an advisory evaluation service specified by the board or the foreign academic credentials service, inc. (FACS).

(6) One quarter unit or hour of credit is equivalent to two-thirds of a semester unit or hour. (History: 37-50-203, MCA; IMP, 37-50-302, 37-50-303, 37-50-305, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, Eff. 1/4/75; AMD, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1992 MAR p. 2136, Eff. 9/25/92; EMERG, AMD, 1996 MAR p. 2280, Eff. 8/23/96; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 1998 MAR p. 463, Eff. 2/13/98; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE

REQUIREMENTS (1) To be issued an initial permit to practice under 37-50-203(2)(g), MCA, an applicant must provide evidence of "adequate" accounting and auditing experience.

(2) Accounting and auditing experience will be considered adequate by the board if satisfactory evidence is presented of having performed accounting and auditing functions ordinarily required in the practice of public accounting, provided this experience:

(a) be attested to by a holder of a permit to practice, and

(b) takes place in the five years prior to the date of the application for permit to practice, and

(c)(i) includes at least 12 calendar months (2,000 hours actual work experience) with at least 500 hours of attest oriented experience requiring application of generally accepted standards and issuance of reports requiring application of generally accepted accounting principles. The prescribed experience may be fulfilled from a combination of attest experience having as its objective financial audits, compliance audits, reviews and compilations or internal financial audits, or

(ii) includes at least 24 calendar months (4,000 hours actual work experience) of private, governmental or public accounting work acceptable to the board. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-201, 37-50-203, MCA; Eff. 12/31/72; AMD, Eff. 12/5/74; AMD, Eff. 1/4/75; AMD, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.503 through 24.201.505 reserved

24.201.506 PREVIOUS APPLICATIONS IN EFFECT

(1) Applications in effect for approved applicants sitting for the uniform certified public accountants examination under regulations heretofore promulgated by the board will be allowed to continue sitting for the examination covered under that application. Any subsequent application must conform to the requirements then in effect. (History: 37-50-203, MCA; IMP, 37-50-311, 37-50-312, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.507 through 24.201.509 reserved

24.201.510 EXAMINATIONS (1) All applicants shall meet the educational requirements of ARM 24.201.501 prior to submission of an application and be approved by the board to sit for the examination.

(2) Before being issued a certificate as a certified public accountant or registered as a licensed public accountant (except applicants being registered as licensed public accountants under 37-50-304, MCA), all applicants shall pass the professional ethics for CPAs course developed by the American institute of certified public accountants (AICPA).

(3) The board adopts the development and scoring services of the AICPA and the computer delivery and digital photograph services by the board's contractors.

(4) Each application must be accompanied by a non-refundable fee and all required supporting documents, including three moral character references, transcripts and foreign academic credentials service, inc. (FACS) evaluations of foreign credentials, as appropriate.

(5) The passing score on each section is 75, subject to the granting of credit requirements of ARM 24.201.512 and 24.201.516.

(6) The board may contract for:

- (a) examination database and reporting services; and
- (b) examination administrative services.

(7) Eligible applicants shall make the necessary contacts to schedule the time and place for examination at an approved test site and pay all applicable fees. Once the candidate obtains a notice to schedule from the board or the board's contractor, the applicant has six months to sit for the scheduled test section(s). If the time expires without sitting for the test section(s) applied for, the applicant will need to reapply.

(8) An applicant who fails to take the examination as scheduled forfeits all application fees. (History: 37-50-204, 37-50-308, MCA; IMP, 37-50-204, 37-50-302, 37-50-303, 37-50-308, MCA; NEW, 2004 MAR p. 643, Eff. 3/26/04; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.511 IMPLEMENTATION OF THE COMPUTER-BASED UNIFORM CERTIFIED PUBLIC ACCOUNTANT EXAMINATION (1) It is the intent of the board to offer only the computer-based version of the examination. As soon as a computer-based version of the uniform certified public accountant examination is available, the board will recognize it. The board expects that the computer-based version of the examination will be available for use starting in April 2004.

(2) The rules in this subchapter will apply after March 26, 2004.

(3) Each portion of the computer-based examination may be taken once each calendar quarter by any given applicant. (History: 37-50-204, 37-50-308, MCA; IMP, 37-50-204, 37-50-302, 37-50-303, 37-50-308, MCA; NEW, 2004 MAR p. 643, Eff. 3/26/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.512 TRANSITION RULE FOR APPLICANTS WHO HAVE PRE-COMPUTER-BASED EXAMINATION CONDITIONAL CREDIT (1) An applicant who has earned conditional credit on the paper-and-pencil examination at the implementation date of the computer-based examination will retain conditional credit for the corresponding test sections of the computer-based examination as follows:

<u>paper-and-pencil exam section</u>	<u>computer-based exam section</u>
auditing	auditing and attestation (A&A)
financial accounting and reporting (FARE)	financial accounting and reporting (FAR)
accounting and reporting (ARE)	regulation (REG)
business law and professional responsibilities (LPR)	business environment and concepts (BEC)

(2) Applicants who have attained conditional status under the paper-and-pencil examination as of the implementation date of the computer-based examination are allowed a transition period to complete any remaining test sections.

The transition period lasts until the earlier of the following occurs:

(a) the applicant has exhausted the number of examination attempts remaining under the paper-and-pencil examination; or

(b) the remaining time that the applicant had under the paper-and-pencil examination to retake test sections not yet passed has expired.

(3) If an applicant that conditioned under the paper-and-pencil examination does not pass all remaining sections during the transition period, conditioned credit earned under the paper-and-pencil examination will expire, and the applicant will lose credit for those sections. However, any computer-based test section passed during the applicable transition period is subject to the granting of credit provisions of the computer-based examination. An applicant who conditioned under the paper-and-pencil examination will not lose credit for a section of the computer-based examination that is passed during the applicable transition period, even though more than 18 months may have elapsed from the date the section is passed.

(4) An applicant shall retain credit for any and all test sections of the examination passed in another state provided such credits meet the requirements of 37-50-204, MCA, and the applicable rules, and were earned under circumstances comparable to those in Montana. (History: 37-50-204, 37-50-308, MCA; IMP, 37-50-204, 37-50-302, 37-50-303, 37-50-308, MCA; NEW, 2004 MAR p. 643, Eff. 3/26/04; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.513 through 24.201.515 reserved

24.201.516 GRANTING OF EXAMINATION CREDIT (1) Upon implementation of the computer-based examination, an applicant may take test sections individually and in any order. Credit for any test section(s) passed is valid for 18 months from the actual date the applicant took the test section.

(a) An applicant for a certificate as a certified public accountant needs to pass all four test sections within a rolling 18-month period which begins on the date the first test section was taken and passed. An applicant may take any section of the examination up to four times during a one-year period but cannot retake any failed test section in any one three-month testing period. In the event all four test sections are not passed in the rolling 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(b) An applicant for a license as a licensed public accountant needs to pass any three test sections within a rolling 18-month period which begins on the date the first test section was taken and passed. An applicant may take any section of the examination up to four times during a one-year period but cannot retake any failed test section in any one three-month testing period. In the event three test sections are not passed in the rolling 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(2) The 18-month period in which to pass all required sections of the examination may be extended if a hardship exception is approved by the board. (History: 37-50-204, 37-50-308, MCA; IMP, 37-50-204, 37-50-302, 37-50-303, 37-50-308, MCA; NEW, 2004 MAR p. 643, Eff. 3/26/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.517 ACCEPTANCE OF EXAMINATION CREDITS (1) In order for credits for passing the uniform certified public accountant's examination to be recognized by the board, a candidate who has never held a certificate as a certified public accountant, or a license as a licensed public accountant in any state must have earned those credits under circumstances and conditions identical to the circumstances and conditions applicable to Montana candidates at the time those credits were earned. Those circumstances and conditions include the conditioning requirements for accumulation of examination credits, if the applicant did not pass all required parts of the examination on the first attempt. (History: 37-1-131, 37-50-203, MCA; IMP, 37-50-302, 37-50-303, 37-50-309, MCA; NEW, 2004 MAR p. 2916, 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.518 EXAMINATION CREDITS - OUT-OF-STATE CANDIDATES

(1) The board will recognize credits for any part of the computer-based uniform certified public accountant examination passed in other jurisdictions, provided those credits meet the requirements of 37-50-204, MCA, and the applicable rules of the board, and were earned under circumstances comparable to those in Montana.

(2) The board will recognize credits for any part of the pencil-and-paper version of the uniform certified public accountant examination passed in other jurisdictions, provided those credits:

- (a) meet the requirements of 37-50-204, MCA;
- (b) were earned under circumstances comparable to those in Montana; and
- (c) timely qualify for conditional credit pursuant to ARM 24.201.512. (History: 37-50-204, 37-50-308, MCA; IMP, 37-50-204, 37-50-302, 37-50-303, 37-50-308, 37-50-309, MCA; NEW, 2004 MAR p. 643, Eff. 3/26/04; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.519 through 24.201.523 reserved

24.201.524 CHEATING (1) Cheating by a candidate in applying for, taking, or subsequent to taking the examination will be deemed to invalidate any score otherwise earned by a candidate on any test section of the examination. Cheating may warrant summary expulsion from the test site, and disqualification by the board from taking the examination for a specified period of time. For purposes of this rule, the following actions or attempted activities, among others, may be considered cheating:

- (a) falsifying or misrepresenting education credentials or other information required for admission to the examination;
- (b) communication between candidates inside or outside the test site or copying another candidate's answers while the examination is in progress;
- (c) communication with others inside or outside the site while the examination is in progress;
- (d) substitution of another person to sit in the test site in place of a candidate;
- (e) reference to crib sheets, textbooks or other material or electronic media (other than that provided to the candidate as part of the examination) inside or outside the test site while the examination is in progress;
- (f) violating the nondisclosure prohibitions of the examination or aiding or abetting another in doing so; or
- (g) retaking or attempting to retake a test section by an individual holding a valid certificate or by a candidate who has unexpired credit for having already passed the same test section, unless the individual has been directed to retake a test section pursuant to board order or unless the individual has been expressly authorized by the board to retake the test section. (History: 37-50-204, 37-50-308, MCA; IMP, 37-50-204, 37-50-302, 37-50-303, 37-50-308, MCA; NEW, 2004 MAR p. 643, Eff. 3/26/04; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.525 through 24.201.527 reserved

24.201.528 LICENSURE OF OUT-OF-STATE APPLICANTS

(1) The board may waive the requirement of examination for those holders of certificates or licenses, then in full force and effect issued under the laws of another state and issue a certificate or license and permit to practice upon:

(a) meeting the requirements established under 37-50-302 and 37-50-303, MCA, and regulations established thereunder.

(b) meeting the requirements established under 37-50-203(2)(g), MCA, and the regulations established thereunder.

(c) meeting the requirements established under 37-50-314, MCA, and the regulations established thereunder.

(2) The board may issue a certificate or license or permit to practice to a holder of a certificate, license or permit issued by another state upon a showing that:

(a) the applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(b) the applicant has had five year's experience in the practice of public accountancy after passing the examination upon which the applicant's certificate was based, within the 10 years immediately preceding the application; and

(c) the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of an initial certificate in this state, that the applicant has fulfilled the requirements of continuing professional education meeting the requirements established under 37-50-314, MCA, and the regulations established thereunder.

(3) Incomplete applications for licensure or certification or transfer of grades that are older than 12 months, will be considered invalid and void. The applicant will be required to re-apply and pay another fee. (History: 37-50-203, 37-50-309, 37-50-311, 37-50-312, 37-50-313, 37-50-317, MCA; IMP, 37-50-311, 37-50-312, 37-50-313, 37-50-317, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 2000 MAR p. 3164, Eff. 11/10/00; TRANS, from Commerce, 2005 MAR p. 2668; AMD, 2005 MAR p. 2671, Eff. 12/23/05.)

24.201.529 LICENSURE OF FOREIGN-TRAINED APPLICANTS

(1) The board may grant a certificate or permit to practice to a foreign-trained applicant if all of the regulations established under ARM 24.201.528 regarding out-of-state applicants have been met, or by meeting the following requirements:

(a) the applicant met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic candidates. The board may in its discretion rely on the international qualifications appraisal board for evaluation of foreign credential equivalency;

(b) all held foreign and domestic credentials must be valid and in good standing at the time of application;

(c) must successfully pass a uniform qualifying examination to ensure that the holder possess adequate knowledge of national practice standards. The board may in its discretion rely on the national association of state boards of accountancy, the American institute of certified public accountants (AICPA), or other professional bodies to develop, administer, and grade such a qualifying examination;

(d) must take and pass the open book AICPA ethics course;

(e) must provide evidence of having met an equivalent experience requirement obtained under the supervision or direction of a chartered accountant, certified public accountant or licensed public accountant in the original jurisdiction in order to be issued an initial permit to practice;

(f) must meet the continuing professional education requirements established under 37-50-314, MCA, and the regulations established thereunder in order to be issued an initial permit to practice; and

(g) the foreign authority granting the designation to the applicant must make a similar provision to allow a person who holds a valid certificate or permit to practice issued by this state to obtain such foreign authority's comparable designation.

(History: 37-1-131, 37-50-203, MCA; IMP, 37-50-311, 37-50-312, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 2000 MAR p. 461, Eff. 2/11/00; TRANS, from Commerce, 2005 MAR p. 2668.)

Rule 24.201.530 reserved

24.201.531 SPECIAL PRACTICE PERMIT (1) Persons wishing to practice public accounting in Montana pursuant to a special practice permit, as authorized by 37-50-323, MCA, must apply to the board and pay the appropriate fee.

(2) For the purposes of determining whether a certified public accountant is licensed in a jurisdiction that has licensing standards that are substantially equivalent to Montana's standards, the board has determined that the following jurisdictions are "substantially equivalent":

- (a) the District of Columbia;
- (b) Guam; and
- (c) all of the states in the United States of America, except:
 - (i) Colorado;
 - (ii) Delaware;
 - (iii) Florida;
 - (iv) New Hampshire; and
 - (v) Vermont. (History: 37-50-203, 37-50-323, MCA; IMP, 37-1-306, 37-50-203, 37-50-317, 37-50-323, MCA; NEW, 2005 MAR p. 2671, Eff. 12/23/05.)

Rules 24.201.532 through 24.201.534 reserved

24.201.535 REACTIVATION OF INACTIVE AND REVOKED STATUS

(1) A licensee may place the license on inactive status (certificate/maintenance) by either indicating on the renewal form that inactive status is desired, or by informing the board office, in writing, that an inactive status is desired, and paying the appropriate fee. It is the sole responsibility of the inactive licensee to keep the board informed as to any change of address during the period of time the license remains on inactive status.

(2) A licensee may not practice accounting in the state of Montana while the license is in an inactive status.

(3) Upon application and payment of the appropriate fee, the board may reactivate an inactive license if the applicant presents satisfactory evidence that the applicant has complied with the continuing education rules of the board under ARM 24.201.2106.

(4) Upon application and payment of the appropriate fee, the board may reactivate a revoked license provided the following requirements are met:

(a) submits written petition stating the reasons for requesting reactivation and outlining employment since certificate or permit was revoked;

(b) presents satisfactory evidence that the applicant has complied with the continuing education requirements of the board under ARM 24.201.2106 if applying for a permit to practice; and

(c) submits certification from the licensing body of all jurisdictions where the licensee is licensed or has practiced that the applicant is in good standing and has not had any disciplinary actions taken against the applicant's license, or if the applicant is not in good standing by that jurisdiction, an explanation of the nature of the violation(s) resulting in that status, including the extent of the disciplinary treatment imposed.

(5) Certificate or license holders who are fully retired from active employment will be exempt from paying annual renewal fees upon submitting a retired status request form to the board and receiving approval. (History: 37-1-319, 37-50-203, MCA; IMP, 37-1-319, MCA; NEW, 1997 MAR p. 540, Eff. 3/25/97; AMD, 1999 MAR p. 212, Eff. 1/29/99; AMD, 2000 MAR p. 3164, Eff. 11/10/00; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapter 6 reserved

Subchapter 7

Professional Conduct Rules

24.201.701 DEFINITIONS (1) "Commission" means compensation for recommending or referring any product or services to be supplied by another person or entity.

(2) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the result of judicial proceeding or the finding of governmental agencies. A firm's or permit holder's fees may vary depending, for example, on the complexity of services. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 2000 MAR p. 3164, Eff. 11/10/00; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.702 and 24.201.703 reserved

24.201.704 INDEPENDENCE (1) A firm or permit holder shall not express an opinion on financial statements of an enterprise in such a manner as to imply that he is acting as an independent public accountant with respect thereto unless he is independent with respect to such enterprise. Independence will be considered to be impaired if, for example:

(a) During the period of his professional engagement, at the time of expressing his opinion, the firm or permit holder;

(i) had or was committed to acquire any direct or material indirect financial interest in the enterprise, or

(ii) was a trustee of any trust or executor or administrator of any estate if such trust or estate had or was committed to acquire any direct or material indirect financial interest in the enterprise, or

(iii) had any joint closely-held business investment with the enterprise or any officer, director or principal stockholder thereof which was material in relation to the net worth of either the firm or permit holder or the enterprise, or

(iv) had any loan to or from the enterprise or any officer, director or principal stockholder thereof other than loans of the following kinds made by a financial institution under normal lending procedures, terms and requirements:

(A) loans obtained by the firm or permit holder which are not material in relation to the net worth of the borrower, and

(B) home mortgages, and

(C) other secured loans, except those secured solely by a guarantee of the firm or permit holder.

(b) during the period covered by the financial statements, during the period of the professional engagements, or at the time of expressing an opinion, the firm or permit holder:

(i) was connected with the enterprise as a promoter, underwriter or voting trustee, a director or officer or in any capacity equivalent to that of a member of management or of an employee, or

(ii) was a trustee for any pension or profit sharing trust of the enterprise.

(2) The foregoing examples are not intended to be all inclusive. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.705 INTEGRITY AND OBJECTIVITY (1) A firm or permit holder shall not in the performance of professional services knowingly misrepresent facts, nor subordinate his judgement to another. In tax practice, however, a firm or permit holder may resolve doubt in favor of his client as long as there is a reasonable support for his position. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.706 COMPETENCE (1) A firm or permit holder shall not undertake any engagement for the performance of professional services unless he complies with the following general standards:

(a) professional competence - A firm or permit holder shall undertake only those engagements which he or his firm can reasonably expect to complete with professional competence, including compliance where applicable, with ARM 24.201.715 and 24.201.716;

(b) due professional care - A firm or permit holder shall exercise due professional care in the performance of an engagement;

(c) planning and supervision - A firm or permit holder shall adequately plan and supervise an engagement;

(d) sufficient relevant data - A firm or permit holder shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.707 DISCREDITABLE ACTS (1) A firm, permit holder, certificate holder, or license holder shall not commit any act discreditable to the profession. A discreditable act will be considered to have occurred if, for example:

(a) a firm or permit holder retains any records rightfully belonging to the client in order to enforce payment of fees.

(b) a firm or permit holder fails to follow required standards or procedure required in governmental audits and does not disclose in his report the fact that such requirements were not followed and the reasons therefor. Engagements for audits of government grants, government units or other recipients of government monies typically require that such audits be in compliance with government audit standards, guides, procedures, statutes, rules, and regulations, in addition to generally accepted auditing standards. If a member has accepted such an engagement and undertakes an obligation to follow specified government audit standards, guides, procedures, statutes, rules and regulations, in addition to generally accepted auditing standards, he is obligated to follow such requirements. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

Rule 24.201.708 reserved

24.201.709 COMMISSIONS (1) A firm or permit holder shall not pay a commission to obtain a client, nor accept a commission for a referral to a client of products or services of others when the firm or permit holder also performs for that client any services for which professional standards require independence. This prohibition applies during the period in which the firm or permit holder is engaged to perform any services requiring independence and the period covered by those services.

(2) A firm or permit holder who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact in writing to any person or entity to whom the firm or permit holder recommends or refers a product or service to which the commission relates. Written acknowledgment of such disclosure shall be obtained.

(3) Any firm or permit holder who accepts a referral fee for recommending or referring any service of a firm or permit holder to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment in writing to the client and obtain written acknowledgment of such disclosure.

(4) This rule shall not prohibit payments for the purchase of an accounting practice or retirement payments to individuals formerly engaged in the practice of public accountancy, or payments to their heirs or estates. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 2000 MAR p. 3164, Eff. 11/10/00; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.710 CONTINGENT FEES (1) A firm or permit holder shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services, when the firm or permit holder also performs for that client any services for which professional standards require independence. This prohibition applies during the period in which the firm or permit holder is engaged to perform any services for which professional standards require independence and the period covered by those services.

(2) A firm or permit holder who is not prohibited by this rule from performing professional services for a contingent fee shall disclose that fact in writing to any person or entity to whom the services are to be provided. Written acknowledgment of such disclosure shall be obtained.

(3) A firm or permit holder shall not offer to prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 2000 MAR p. 3164, Eff. 11/10/00; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.711 through 24.201.714 reserved

24.201.715 AUDITING STANDARDS (1) A firm or permit holder shall not permit his name to be associated with financial statements in such a manner as to imply that he is acting as an independent public accountant with respect to such financial statements unless he has complied with applicable generally accepted auditing standards. Statements on auditing standards issued by the American institute of certified public accountants, and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures therefrom must be justified by those who do not follow them. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.716 ACCOUNTING PRINCIPLES (1) A firm or permit holder shall not express an opinion that financial statements are presented in conformity with generally accepted accounting principles if such financial statements contain any departure from such accounting principles which has a material effect on the financial statements taken as a whole, unless the firm or permit holder can demonstrate that by reason of unusual circumstances the financial statements would otherwise have been misleading. In such a case, the firm or permit holder's report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle would result in a misleading statement. For purposes of this rule generally accepted accounting principles are considered to be defined by pronouncements issued by the financial accounting standards board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.717 OTHER TECHNICAL STANDARDS (1) A firm or permit holder shall comply with proper technical standards. For purposes of this rule, the technical standards are considered to be defined by pronouncements issued by the American institute of CPA's. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1997 MAR p. 540, Eff. 3/25/97; TRANS, from Commerce, 2005 MAR p. 2668.)

Rule 24.201.718 reserved

24.201.719 FORECASTS (1) A firm or permit holder shall not in the performance of professional services permit his name to be used in conjunction with any forecast or projection of future transactions in a manner which may reasonably lead to the belief that the firm or permit holder vouches for the achievability of the forecast or projection.

(2) This rule does not prohibit a firm or permit holder from preparing, or assisting a client in the preparation of, forecasts or projections of the results of future transactions. When a firm or permit holder's name is associated with such forecasts or projections, there shall be the presumption that such data may be used by parties other than the client. Therefore, full disclosure must be made of the sources of the information used and the major assumptions made in the preparation of the statements and analyses, the character of the work performed by the firm or permit holder, and the degree of the responsibility he is taking. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.720 CONFIDENTIAL CLIENT INFORMATION (1) A firm or permit holder shall not without the consent of his client disclose any confidential information pertaining to his client obtained in the course of performing professional services.

(2) This rule does not:

(a) relieve a firm or permit holder of any obligations under ARM 24.201.715 and 24.201.716, or

(b) affect in any way a firm or permit holder's obligation to comply with a validly issued subpoena or summons enforceable by order of a court, or

(c) prohibit disclosures in the course of a quality review of a firm or permit holder's professional service, or

(d) preclude a firm or permit holder from responding to any inquiry made by the board or any investigative or disciplinary body established by law or formally recognized by the board, or

(e) relieve a firm or permit holder of the requirement to file reports under ARM 24.201.1107.

(3) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from firms or permit holders in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body of the kind referred to above. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1986 MAR p. 1500, Eff. 9/12/86; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.721 and 24.201.722 reserved

24.201.723 RECORDS (1) A firm or permit holder shall furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question:

- (a) a copy of a tax return of the client; and
- (b) a copy of any report, or other document, issued by the firm or permit holder to or for such client; and
- (c) any accounting or other records which the firm or permit holder obtained from or on behalf of, the client which the firm or permit holder removed from the client's premises or received for the client's account, but the firm or permit holder may make and retain copies of such documents when they form the basis for work done by him; and
- (d) a copy of the firm or permit holder's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

(2) Examples of working papers that are considered to be client's records would include:

- (a) worksheets in lieu of books of original entry (e.g., listings and distributions of cash receipts or cash disbursements on columnar working paper);
- (b) worksheets in lieu of general ledger or subsidiary ledgers, such as accounts receivable, job cost and equipment ledgers or similar depreciation records;
- (c) all adjusting and closing journal entries and supporting details (If supporting details are not fully set forth in the explanation of the journal entry, but are contained in analyses of accounts in the accountant's working papers, then copies of such analyses must be furnished to the client.);

(d) consolidating or combining journal entries and worksheets and supporting detail used in arriving at final figures incorporated in an end product such as financial statements or tax returns.

(3) Retention by firm or permit holder of clients records after a demand is made for them is an act discreditable to the profession in violation of ARM 24.201.707.

(4) A firm's or permit holder's working papers are his property and need not be surrendered to the client. Any working papers developed by the firm or permit holder incident to the performance of his engagement which do not result in changes in the clients' records or are not in themselves part of the records ordinarily maintained by such clients, are considered to be solely "accountant's working papers" and are not the property of the client. If the firm or permit holder has retained in his files copies of a client's records already in possession of the client, the firm or permit holder is not required to return such copies to the client. (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.724 and 24.201.725 reserved

24.201.726 ADVERTISING (1) A firm or permit holder shall not use or participate in the use of any form of public communication having reference to his professional services which contains a false, fraudulent, misleading, deceptive or unfair statement or claim including, but is not limited to, a statement or claim which:

- (a) contains a misrepresentation of fact; or
 - (b) is likely to mislead or deceive because it fails to make full disclosure of relevant facts; or
 - (c) contains any testimonial or laudatory statement, or that is not based on verifiable facts; or
 - (d) is intended or likely to create false or unjustified expectations of favorable results; or
 - (e) implies educational or professional attainments or licensing recognition not supported in fact; or
 - (f) states or implies that the firm or permit holder has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case; or
 - (g) represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or
 - (h) implies the ability to influence any court, tribunal, regulatory agency or similar body or official;
 - (i) contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
- (History: 37-50-203, MCA; IMP, 37-50-203, 37-50-321, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapters 8 through 10 reserved

Subchapter 11

Profession Monitoring Rules

24.201.1101 INTRODUCTION (1) Pursuant to 37-50-203, MCA, the purpose of this subchapter is to provide for the monitoring of the public accounting profession's association with financial statements. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 2003 MAR p. 12, Eff. 1/17/03; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.1102 DEFINITIONS As used in this subchapter:

(1) "Practice unit" means each permit holder who practices public accounting as an individual or sole proprietor or each separate office of a sole proprietorship, partnership or professional corporation which practices public accounting, or a governmental organization which employs a permit holder in a public accounting capacity.

(2) "Peer review" means a review under a formal peer review program sponsored by the division of firms of the American institute of certified public accountants or such other formal peer review program approved by the board of public accountants (board). (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1990 MAR p. 586, Eff. 3/30/90; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.1103 through 24.201.1105 reserved

24.201.1106 STATEMENT BY PERMIT HOLDERS (1) Every individual applying for a permit to practice or renewal thereof must submit a statement to the board which describes the individual's level of association with financial statements. This statement shall disclose the practice unit, if any, of which the permit holder is a member. This statement shall be used to determine if the permit holder is required to comply with ARM 24.201.1107.

(2) Permit holders shall be required to file a report with the board as set out in ARM 24.201.1107, along with the required fee set forth in ARM 24.201.410, if they:

(a) sign reports which indicate an expert knowledge of accounting or auditing; or

(b) allow their name and designation as a CPA or LPA to be included on a report that indicates expert knowledge of accounting or auditing; or

(c) are members of a practice unit and who have the final authority to issue a report that indicates an expert knowledge of accounting or auditing.

(3) Permit holders shall not be required to file a report with the board as set out in ARM 24.201.1107, if they:

(a) do not sign reports which indicate an expert knowledge of accounting or auditing; or

(b) do not allow their name and designation as a CPA or LPA to be included on a report that indicates expert knowledge of accounting or auditing; or

(c) are members of a practice unit but do not have the final authority to issue a report that indicates an expert knowledge of accounting or auditing.

(4) In unusual circumstances, the board will decide whether a report is required to be filed under ARM 24.201.1107. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1999 MAR p. 1203, Eff. 6/4/99; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.1107 FILING OF REPORTS (1) Every permit holder who is required to file a report under ARM 24.201.1106 shall file with the board a copy of the highest level of public accounting work performed by the holder. Levels of reporting from the highest to lowest level are:

- (a) an audit report (including the complete financial statements reported on);
or
- (b) a review report (including the complete financial statements reported on);
or
- (c) a compilation report (including the complete financial statements reported on); or
- (d) if reports mentioned in (a), (b) or (c) above have not been issued, any other report (complete with the information reported on) that indicates the permit holder has expert knowledge of accounting or auditing.

(2) The board may require a permit holder to submit workpapers prepared in support of the reports issued in (1)(a) and (b) above.

(3) The report submitted must have been issued within the period of time specified by the board. For reports submitted pursuant to (1)(c), the client's or employer's name and similar identifying information must be deleted.

(4) This requirement will be satisfied by the submission of a report by the practice unit of which the permit holder is a member. One report filed by a practice unit may be used to meet the filing requirement for all members of that practice unit who are required to file a report. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1990 MAR p. 586, Eff. 3/30/90; AMD, 1992 MAR p. 2138, Eff. 9/25/92; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) A practice unit which has undergone an AICPA or board-sanctioned peer review within three calendar years must file a copy of its peer review report, including letter of comments (if any), letter of responses (if any) and acceptance of the review report by the administering entity.

(2) The board reserves the authority to request a practice unit to submit a copy of any or all reports, financial statements and supporting work papers for engagements subject to peer review.

(3) The board reserves the authority to exempt permit holders who would otherwise be required to file a report under ARM 24.201.1107 for good cause. (History: 37-50-203, MCA; IMP, 37-50-203, MCA; NEW, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1990 MAR p. 586, Eff. 3/30/90; AMD, 1992 MAR p. 2138, Eff. 9/25/92; AMD, 1999 MAR p. 212, Eff. 1/29/99; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.1109 and 24.201.1110 reserved

24.201.1111 PROFESSION MONITORING OF HOLDERS OF A SPECIAL PRACTICE PERMIT (1) The board will apply its profession monitoring program rules to each individual or business entity that is registered pursuant to 37-50-324, MCA. For individuals engaging in the practice of public accounting with a registered business entity (a "firm"), the monitoring program will apply to the firm, not just the individual with a special practice permit.

(2) Rules for the profession monitoring program are found in ARM Title 24, chapter 201, subchapter 11. (History: 37-50-203, 37-50-323, MCA; IMP, 37-1-306, 37-50-203, 37-50-317, 37-50-323, 37-50-324, MCA; NEW, 2005 MAR p. 2671, Eff. 12/23/05.)

Rules 24.201.1112 through 24.201.1114 reserved

24.201.1115 REVIEWS AND ENFORCEMENT (1) Reports submitted shall be classified as either acceptable or not acceptable. Definitions of these terms are as follows:

(a) "Acceptable" means in compliance with professional standards (no significant departures from professional standards noted), but reviewers may have minor comment(s) for the practitioner's consideration.

(b) "Not acceptable" means not in compliance with professional standards as the reviewers have noted significant departures from such standards and/or the report is significantly inaccurate.

(2) Responses are required from those practice units whose reports are classified as not acceptable or from practice units that have submitted a peer report that is other than unmodified. The board may also require a written comprehensive statement of future procedures to be followed that will ensure an improvement in the quality of future reports.

(3) For those practice units which are required to submit responses under (2), the board may require one or more of the following actions:

- (a) completion of specific CPE courses;
- (b) third-party review of workpapers;
- (c) third-party review of other reports and workpapers;
- (d) pre-issuance reviews of reports by permit holders approved by the board;
- (e) inspection of quality controls by a third party;
- (f) participation in an approved peer review program; and
- (g) all other sanctions allowed by 37-1-312, MCA.

(4) The reports submitted to the board under this subchapter shall be subject to review, investigation and enforcement under subchapter 24. (History: 37-1-319, 37-50-203, MCA; IMP, 37-1-312, 37-50-203, MCA; NEW, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1990 MAR p. 586, Eff. 3/30/90; AMD, 1992 MAR p. 2138, Eff. 9/25/92; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapters 12 through 20 reserved

Subchapter 21

Renewal and Continuing Education

24.201.2101 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) All certified public accountants and licensed public accountants certificates, licenses, and permits to practice must be renewed on or before the date set by ARM 24.101.413.

(3) Renewal licenses, certificates and permits to practice will be issued by the board to all certified public accountants, licensed public accountants and permit holders in good standing upon payment of the established license fees, pursuant to ARM 24.201.410.

(4) The provisions of ARM 24.101.408 apply. (History: 37-1-131, 37-50-201, 37-50-203, MCA; IMP, 37-1-141, 37-50-203, 37-50-314, MCA; NEW, Eff. 7/5/75; AMD, Eff. 10/4/75; AMD, 1978 MAR p. 201, Eff. 2/24/78; AMD, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1985 MAR p. 154, Eff. 2/15/85; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1997 MAR p. 540, Eff. 3/25/97; TRANS, from Commerce, 2005 MAR p. 2668; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

Rules 24.201.2102 through 24.201.2104 reserved

24.201.2105 ADVISORY COMMITTEE (1) The board may select an advisory committee on continuing education whose purpose will be to assist the board in implementing continuing education regulations. The committee shall be composed of not less than five holders of a Montana permit to practice, each of whom shall be competent by reason of training or experience and will include CPAs and LPAs on the proportion of CPAs certified and LPAs licensed, who hold permits to practice but not less than one LPA. The committee may:

(a) evaluate and recommend to the board either prospectively or retrospectively, whether specific courses, programs, education and training qualify as formal programs of learning which contribute directly to professional competency of an individual engaged in public accounting, and the credit to be granted therefore. In considering qualifications, any course, program, education or training not commensurate with professional status will not qualify;

(b) recommend to the board in individual cases whether professional knowledge and competency have been reestablished by virtue of the completion of such program;

(c) verify the continuing education records on a test or complete basis from time-to-time;

(d) perform any other duties as requested by the board as they relate to these regulations. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2106 BASIC REQUIREMENT (1) During the three-year period, ending the June 30th immediately preceding the permit year of January 1 through December 31, applicants for a permit to practice must complete 120 hours of acceptable continuing education credit, except as otherwise provided under 37-50-314, MCA, and as explained in ARM 24.201.2154 and 24.201.2155.

(2) At least two hours of the 120 hours of acceptable continuing education credit must consist of knowledge and the application of ethics or the codes of professional conduct of certified public accountants and licensed public accountants.

(3) Applicants who have already met the full basic requirement by the end of any June 30th reporting period may elect to have excess continuing education hours taken during the immediately preceding months of May and June apply to the subsequent reporting period.

(4) Applicants who have not completed their full basic requirements by the end of any June 30th reporting period may elect to have qualified continuing education hours taken during the immediately following months of July and August apply to the previous reporting period. (History: 37-1-319, 37-50-201, 37-50-203, MCA; IMP, 37-1-306, 37-50-203, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 1999 MAR p. 212, Eff. 1/29/99; AMD, 2000 MAR p. 461, Eff. 2/11/00; AMD, 2003 MAR p. 12, Eff. 1/17/03; TRANS, from Commerce, 2005 MAR p. 2668; AMD, 2006 MAR p. 83, Eff. 12/23/05.)

Rule 24.201.2107 reserved

24.201.2108 WHO MUST COMPLY - GENERAL (1) All persons who are issued a permit to practice must comply with the continuing education requirements unless they have been excepted as provided by ARM 24.201.2112, 24.201.2154, or 24.201.2155. (History: 37-50-201, 37-50-203, 37-50-323, MCA; IMP, 37-50-203, 37-50-314, 37-50-323, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668; AMD, 2005 MAR p. 2671, Eff. 12/23/05.)

Rules 24.201.2109 through 24.201.2111 reserved

24.201.2112 COMPLIANCE WITH CONTINUING EDUCATION FOR NONRESIDENTS (1) If a nonresident with a special practice permit is in compliance with the continuing education requirements of a jurisdiction where the nonresident is licensed or certified, that person is deemed to have complied with Montana continuing education requirements for the purposes of maintaining the special permit to practice in Montana.

(2) If the nonresident is licensed in a jurisdiction without mandatory continuing education requirements, the special permit holder must meet Montana continuing education requirements as provided in ARM Title 24, chapter 201, subchapter 21. (History: 37-50-203, 37-50-323, MCA; IMP, 37-1-306, 37-50-203, 37-50-317, 37-50-323, MCA; NEW, 2005 MAR p. 2671, Eff. 12/23/05.)

24.201.2113 NONRESIDENT HOLDERS OF A PERMIT TO PRACTICE -- COMPLIANCE (1) Holders of regular permits to practice (as opposed to a special practice permit) who are out-of-state residents are required to comply with the continuing education requirements if they wish to maintain their permits to practice public accounting in Montana.

(2) A holder of a special practice permit is subject to the provisions of ARM 24.201.2112. (History: 37-50-201, 37-50-203, 37-50-323, MCA; IMP, 37-50-203, 37-50-314, 37-50-323, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668; AMD, 2005 MAR p. 2671, Eff. 12/23/05.)

24.201.2114 OUT-OF-STATE APPLICANTS CONTINUING EDUCATION REQUIREMENT

(1) An individual, who holds a valid and unrevoked certified public accountant certificate or public accountant license issued by any other state or political subdivision of the United States, and who makes application under the appropriate provisions of the statutes for a certificate or license in this state, and who receives a certificate or license from this state, shall be required to comply with the full basic requirement before being issued a permit to practice in this state. Compliance will be reported on a form provided by the board.

(2) If the individual holds a valid and unrevoked permit to practice public accounting if one is issued by such other jurisdiction, or was otherwise allowed to practice public accounting in such other jurisdiction, and cannot meet the full basic requirement at the time of application for a permit to practice, the individual must request that the public accounting regulatory entity of such other jurisdiction submit in writing, directly to the board, verification that the individual was allowed to practice public accounting in that other jurisdiction. Upon acceptance of the verification by the board, the individual will be issued a permit to practice until the permit year following the June 30 following the individual's application. The individual must complete the full basic requirement by the June 30 following their application.

(3) Except that such individual's basic continuing education requirements for purposes of this rule shall be no greater than if the individual's initial registration in such other jurisdiction was made in this state as explained in ARM 8.54.808.

(History: 37-50-201, 37-50-203, MCA; IMP, 37-1-306, 37-50-203, MCA; AMD, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1997 MAR p. 540, Eff. 3/25/97; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2115 through 24.201.2119 reserved

24.201.2120 STATEMENT ON STANDARDS FOR FORMAL CONTINUING EDUCATION PROGRAMS

(1) To help ensure that practitioners receive quality continuing professional education, appropriate standards are needed. With appropriate standards, programs are less likely to vary in quality of development and presentation and in measurement and reporting of credits.

(2) Moreover, the large number of programs available throughout the United States, the varying backgrounds of credentials of sponsoring organizations, and the mobility of participants in these programs create measuring and reporting problems that suggest the need for nationally uniform standards. The purpose of this statement is to provide such uniform criteria.

(3) Throughout these rules the term "programs" refers to both formal group and formal self-study programs. A group program is an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants. When a group program complies with the standards in these rules it becomes a "formal" group program. All other group programs are informal. A self-study program is an educational process designed to permit a participant to learn a given subject without major interaction with an instructor. For a self-study program to be "formal":

(a) the sponsor of it must provide a certificate upon evidence of satisfactory completion, such as a completed workbook or examination, and

(b) it must comply with the standards in these rules. "Sponsors" are the organizations responsible for presenting programs and are not necessarily program developers. However, it is their responsibility to see that their programs comply with all the standards of these rules. (ARM 24.201.2121 through 24.201.2124) (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2121 STANDARDS FOR CPE PROGRAM DEVELOPMENT (1) The program should contribute to the professional competence of participants.

(a) The fundamental purpose of continuing education is to increase the practitioners professional competence. A professional person is one characterized as conforming to the technical and ethical standards of his profession. This characterization reflects the expectation that a person holding himself out to perform services of a professional quality needs to be knowledgeable within a broad range of related skills. Thus, the concept of professional competence is to be broadly interpreted. It includes, but is not restricted to, accounting, auditing, taxation, and management advisory services. Accordingly, programs contributing to the development and maintenance of other professional skills also should be recognized as acceptable continuing education programs. Such programs might include, but not be restricted to the areas of communication, ethics, quantitative methods, behavioral sciences, statistics, and practice management.

(2) The stated program objectives should specify the level of the knowledge the participant should have attained or the level of competency he should be able to demonstrate upon completing the program.

(a) Program developers should clearly disclose what level of knowledge and/or skill is expected to be imparted under a particular program. Such levels may be expressed in a variety of ways, all of which should be informative to potential participants. As an illustration, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced, or overview, which might be defined as follows:

(i) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area;

(ii) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.

(iii) An advanced level program teaches participants to deal with complex situations.

(iv) An overview program enables participants to develop a perspective as to how a subject area relates to the broader aspects of accounting or brings participants up to date on new developments in the subject area.

(3) The education and/or experience prerequisites for the program should be stated.

(a) All programs should clearly identify what prerequisites are necessary for enrollment. If no prerequisite is necessary, a statement to this effect should be made. Prerequisites should be specified in precise language so potential participants can readily ascertain whether they qualify for the program or whether the program is above or below their level of knowledge or skill.

(4) Programs should be developed by individual(s) qualified in the subject matter and in instructional design.

(a) This standard is not intended to require that any individual program developer be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in a program's development, whether one or more persons are involved in that development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.

(b) "Instructional design" is a teaching plan that considers the organization and interaction of the materials as well as the method of presentation such as lecture, seminar, workshop, or programmed instruction.

(5) Program content should be current.

(a) The program developer must review the course materials periodically to assure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued where appropriate and obsolete materials should be deleted. However, between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing the participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.

(6) Programs should be reviewed by a qualified person(s) other than the preparer(s) to ensure compliance with the above standards.

(a) In order to ensure that programs meets the standard for program development, they should be reviewed by one or more individuals in the subject area and in the instructional design. Any one reviewer need not be competent in both the program subject matter and in instructional design, but both aspects of a program should be reviewed. However, it may be impractical to review certain programs, such as a short lecture given only once; in these cases, more reliance must be placed on the competence of the presenter. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2122 STANDARDS FOR CPE PROGRAM PRESENTATION

(1) Participants should be informed in advance of objectives, prerequisites, experience level, content, advance preparation, teaching method(s), and recommended contact hours credit.

(a) In order for potential participants to most effectively plan their continuing education, the salient features of any program should be disclosed. Accordingly, brochures or other announcements should be available well in advance of each program and should contain clear statements concerning objectives, prerequisites (if any), experience level, program content, the nature and extent of advance preparation, the teaching method(s) to be used, and the amount of credit the program is designed to qualify for.

(2) Instructors should be qualified both with respect to program content and teaching methods used.

(a) The instructor is a key ingredient in the learning process in any group program. Therefore, it is imperative that sponsors exercise great care in selecting qualified instructors for all group programs. A qualified instructor is one who is capable, through background, training, education, and/or experience, of providing an environment conducive to learning. He should be competent in the subject matter and skilled in the use of the appropriate teaching method(s). Although instructors are selected with great care, sponsors should evaluate their performance at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

(3) Program sponsors should encourage participation only by individuals with appropriate education and/or experience.

(a) So that participants can expect programs to increase their professional competence, this standard encourages sponsors to urge only those who have the appropriate education and/or experience to participate. The term "education and/or experience" in the standard also implies that participants will be expected to complete any advance preparation. An essential step in encouraging advance preparation is timely distribution of program materials. Although implementing this standards may be difficult, sponsors should make a significant effort to comply with the spirit of the standard by encouraging

- (i) enrollment only by eligible participants,
- (ii) timely distribution of materials, and
- (iii) completion of any advance preparation.

(4) The number of participants and physical facilities should be consistent with the teaching method(s) specified.

(a) The learning environment is affected by the number of participants and by the quality of the physical facilities. Sponsors have an obligation to pay serious attention to these two factors. The maximum number of participants for a case-oriented discussion program, for example, should be considerably less than for a lecture program. The seating arrangement is also very important. For a discussion presentation, learning is enhanced if seating is arranged so that participants can easily see and converse with each other. If small group sessions are an integral part of the program format, appropriate facilities should be available to encourage communications within a small group. In effect, class size, quality of facilities, and seating arrangements are integral and important aspects of the educational environment and should be carefully controlled.

(5) All programs should include some means for evaluating quality.

(a) Evaluations should be solicited from both participants and instructors. The objective of evaluations is to encourage sponsors to strive for increased program effectiveness. Programs should be evaluated to determine whether:

- (i) objectives have been met,
- (ii) prerequisites were necessary or desirable,
- (iii) facilities were satisfactory,
- (iv) the instructor was effective,
- (v) advance preparation materials were satisfactory,

(vi) the program content was timely and effective. Evaluations might take the form of pre-tests for advance preparation, post-tests for effectiveness of the program, questionnaires completed at the end of the program or later, oral feedback to the instructor or sponsor, and so forth. Instructors should be informed of their performance, and sponsors should systematically review the evaluation process to ensure its effectiveness. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2123 STANDARDS FOR CPE PROGRAM MEASUREMENT

(1) All programs should be measured in terms of 50-minute contact hours. The shortest recognized program should consist of one contact hour.

(a) The purpose of this standard is to develop uniformity in the measurement of continuing education activity. A contact hour is 50 minutes of continuous participation in a group program. Under this standard, credit is granted only for full contact hours. For example, a group program lasting 100 minutes would count for two hours. However, one lasting between 50 and 100 minutes would count only for one hour. For continuous conferences and conventions, when individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three contact hours. For universities or college courses, each semester hour credit should equal 15 hours toward the requirement. A quarter hours credit should equal 10 hours.

(b) Sponsors are encouraged to monitor group programs in order to accurately assign the appropriate number of credit hours for participants who arrive late or leave before a program is completed.

(c) Since credit is not allowed for preparation time for group programs, it should not be granted for the equivalent time in self-study programs. Self-study programs should be pre-tested to determine average completion time. One-half of the average completion time is the recommended credit to be allowed. For example, a self-study program that takes an average of 800 minutes to complete is recommended for eight "contact hours" of credit.

(2) When an instructor or discussion leader serves at a program for which participants receive credit and at a level that contributes to his or her professional competence, credit should be given for preparation and presentation time measured in terms of contact hours.

(a) Instructors and discussion leaders should receive credit for both preparation and presentation. For the first time they present a program, they should receive contact hour credit for actual preparation hours up to two times the class contact hours. If a course is rated at eight contact hours, the instructor could receive up to 24 contact hours of credit (16 hours for preparation and eight hours for presentation). For repetitious presentations the instructor should receive no credit unless he can demonstrate that the subject matter involved was changed sufficiently to require significant additional study or research.

(b) In addition, the maximum credit for preparation and presentation should not exceed 50 percent of the total credit an instructor or discussion leader accumulates in a reporting period. For example, if a discussion leader's state required 40 hours of continuing education yearly, and he actually taught 16 hours and took 30 hours to prepare, the most credit he could claim would be 20 hours. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2124 STANDARDS FOR CPE REPORTING (1) Participants in group or self-study programs should document their participation including:

- (a) sponsor,
- (b) title and/or description of content,
- (c) date(s)
- (d) location, and
- (e) number of contact hours. Documentation should be retained for an appropriate period.

(f) This standard is designed to encourage participants to document their attendance at a group program or participation in a self-study program. State laws or regulations may dictate the length of time to retain documentation. In the absence of legal specifications, a reasonable policy would be to retain documentation for five years from the date the program is completed. For self-study programs evidence of completion would normally be the certificate supplied by the sponsor.

(2) In order to support the reports that may be required of participants, the sponsor of group or self-study programs should retain for an appropriate period:

- (a) record of participation,
- (b) outline of the course (or equivalent),
- (c) date(s),
- (d) location,
- (e) instructor(s), and
- (f) number of contact hours

(g) Because participants may come from any state or jurisdiction, the appropriate time for the sponsor to retain this information is not dependent solely on the location of the program or sponsor. To satisfy the detailed requirements of all jurisdictions, a retention period of five years from the date the program is completed is appropriate. The record of attendance should reflect the contact hours earned by each participant, including those who arrive late or leave early. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2125 through 24.201.2129 reserved

24.201.2130 PROGRAMS WHICH QUALIFY (1) A specific program qualifies as acceptable continuing education if it is a formal program of learning which contributes directly to the professional competence of an individual permitted to practice public accounting and such program meets the minimum standards of quality of development and presentation and of measurement and reporting of credits set forth in the Statement on Standards for Formal Continuing Education Programs published by the National Association of State Boards of Accountancy, (ARM 24.201.2120 through 24.201.2124) or such other educational standards as may be established from time-to-time by the board.

(2) The board anticipates that individuals will maintain the high standards of the profession in selecting quality programs. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. and Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2131 ACCEPTABLE SUBJECT MATTER FOR QUALIFYING PROGRAMS

(1) The following general subject matters are acceptable so long as they contribute to the basic professional knowledge and competence of the individual and meet the minimum standards of quality or development and presentation and of measurement and reporting of credits set forth in the Statement on Standards for Formal Continuing Education Programs published by the National Association of State Boards of Accountancy (ARM 24.201.2120 through 24.201.2124):

- (a) accounting and auditing,
 - (b) taxation,
 - (c) management,
 - (d) computer science,
 - (e) communication arts,
 - (f) mathematics, statistics, probability and quantitative application in business,
 - (g) economics,
 - (h) business law,
 - (i) functional fields of business: finance, production, marketing, personnel relations, business management and organization;
 - (j) specialized areas of industry (e.g., film industry, real estate, farming, etc.),
 - (k) administrative practice (e.g., engagement letters, personnel, etc.).
- (2) Areas other than those listed above may be acceptable if the individual can demonstrate that they contribute to their professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the individual. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2132 ACCEPTABLE PROGRAMS (1) The following group programs qualify for credit if they meet the standards specified in the preceding rule, (ARM 24.201.2131):

(a) professional education and development of programs of national, state and local accounting organizations.

(b) technical sessions at meetings of national, state and local accounting organizations and their chapters.

(c) university or college courses (both credit and non-credit courses).

(d) formal in-firm education programs.

(e) programs of other organizations (accounting, industrial, professional, etc.).

(f) committee meetings of professional societies which are structured as formal educational programs.

(g) dinner, luncheon and breakfast meetings which are structured as formal educational programs.

(h) firm meetings for staff and/or management groups which are structured as formal educational programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify. However, portions devoted to firm administrative, financial and operating matters generally would not qualify. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/9/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2133 through 24.201.2135 reserved

24.201.2136 CREDIT HOURS GRANTED - GENERAL (1) Continuing education credit will be given with a minimum of 50 minutes constituting one hour. One-half continuing education credit increments (equal to a minimum of 25 minutes) are permitted after the first credit has been earned in a given learning activity. For university or college courses, each semester unit of credit shall equal 15 hours toward the requirement. A quarter unit of credit shall equal 10 hours. (History: 37-1-319, 37-50-201, 37-50-203, MCA; IMP, 37-1-306, 37-50-203, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 2003 MAR p. 12, Eff. 1/17/03; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2137 CREDIT FOR FORMAL INDIVIDUAL STUDY PROGRAMS

(1) Formal self-study programs shall be pretested by the developer to determine average completion time.

(a) Interactive self-study programs shall receive continuing education credit equal to the average completion time, if the sponsor is recognized and approved by NASBA's CPE quality assurance service (referred to as a NASBA QAS sponsor). An interactive self-study program is designed to use interactive learning methodologies that simulate a classroom learning process that provides significant ongoing, interactive feedback to the participant regarding his or her learning progress.

(b) Noninteractive self-study programs receive continuing education credit equal to one-half of the average completion time.

(2) Individuals claiming credit for such correspondence or formal individual study courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit is allowed in the period in which the course is completed, except as allowed in ARM 24.201.2106. (History: 37-1-319, 37-50-201, 37-50-203, MCA; IMP, 37-1-306, 37-50-203, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 2000 MAR p. 461, Eff. 2/11/00; AMD, 2003 MAR p. 12, Eff. 1/17/03; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2138 CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, SPEAKER, OR REPORT REVIEWERS (1) Instructors, discussion leaders, and speakers may claim continuing education credit for both preparation and presentation time. Credit may be claimed for actual preparation time up to two times the class contact hours for the first time the class is presented. Credit as an instructor, discussion leader, or speaker may be claimed provided that the session is one which would meet the continuing education requirements of those attending. The maximum credit for such preparation and teaching shall not exceed 50 percent of the full basic period requirement.

(2) Continuing education credit may be claimed for serving as a report reviewer under the board's positive enforcement program established in ARM 8.54.701 and following, or under other structured report review programs approved by the board. One hour of credit shall be granted for every two hours spent reviewing reports. The maximum credit for such reviews shall be no more than eight hours in any given fiscal year reporting period. Such credits shall qualify towards the requirement related to reporting on financial statements in ARM 24.201.2106(2). (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 586, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2139 CREDIT FOR PUBLISHED ARTICLES, BOOKS, ETC.

(1) Credit may be claimed for published articles and books. The amount of credit so awarded will be determined by the board. Credit may be allowed for published articles and books provided they contribute to the professional competence of the individual. Credit for preparation of such publications may be claimed on a self-declaration basis up to 25 percent of the full basic period requirement. In exceptional circumstances an article(s) or book(s) may be provided to the board with an explanation of the circumstances which would justify a greater credit. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2140 through 24.201.2144 reserved

24.201.2145 REPORTING REQUIREMENTS (1) On or before July 31 permit holders shall give evidence to the board that their continuing education requirements have been met for the reporting period ending June 30 prior thereto.

(2) Persons who use the two-month carry-back provision of ARM 24.201.2106(5) shall file their reporting forms by July 31, listing the course(s) they are planning to attend or complete. If the course(s) listed are not completed, they must notify the board office in writing immediately, but not later than August 31. Such notification(s) shall explain why the course(s) were not completed and provide a plan to meet the continuing education requirements. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 2000 MAR p. 461, Eff. 2/11/00; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2146 CONTINUING EDUCATION REPORTING FOR PERMIT TO PRACTICE (1) Applicants for a permit to practice must provide a signed statement on forms prescribed by the board of the continuing education programs which they claim to be acceptable showing:

- (a) sponsoring organization,
- (b) location of program,
- (c) title of program or description of content,
- (d) dates attended,
- (e) hours claimed. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2147 EVIDENCE OF COMPLETION - RETENTION (1) Primary responsibility for documenting the requirements rests with the individual and evidence to support fulfillment of those requirements should be retained for a period of five years after the completion of educational courses.

(2) Satisfaction of the documentation requirements, including the retention of attendance records and written outlines, may be accomplished as follows:

(a) The individual must retain a copy of the course outline prepared by the course sponsor along with the following information:

- (i) name of sponsoring organization,
- (ii) location of program,
- (iii) title of program or description of content,
- (iv) dates attended,
- (v) hours claimed.

(b) For courses taken for scholastic credit in accredited universities and colleges (state, community or private), evidence of satisfactory completion of the course will be sufficient; for non-credit courses taken, a statement of the hours of attendance, signed by the instructor, must be obtained by the individual.

(c) For formal individual study programs, written evidence of completion must be obtained by the individual. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2148 VERIFICATION (1) The board will verify on a test or complete basis, information submitted by individuals. If an application for permit to practice is not approved, the applicant will be so notified in writing and may be granted a period of time by the board in which to correct the deficiencies noted. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2149 through 24.201.2153 reserved

24.201.2154 HARDSHIP EXCEPTION (1) The board has authority to make a written exception which must be reviewed and reapproved, if applicable, each year, for reasons of individual hardship including health, military service, inaccessibility to programs or interference with an interstate practice. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2155 OTHER EXCEPTIONS (1) The board has authority to prescribe an amplified program or schedule of continuing education for an individual on an annual case-by-case basis should the board decide such amplification in the basic requirement and/or programs which qualify are in the public's best interest. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2156 through 24.201.2160 reserved

24.201.2161 REINSTATEMENT (1) An individual formerly the holder of a permit who wishes to apply for reinstatement of the permit must first satisfy the provisions of ARM 24.201.2106. (History: 37-50-201, 37-50-203, MCA; IMP, 37-50-203, 37-50-314, 37-50-322, MCA; NEW, 1980 MAR p. 2971, Eff. 11/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1990 MAR p. 584, Eff. 3/30/90; TRANS, from Commerce, 2005 MAR p. 2668.)

Subchapters 22 and 23 reserved

Subchapter 24

Complaint Procedures

24.201.2401 COMPLAINT PROCEDURE (1) A person, government or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board.

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the licensee complained about for a written response. Upon receipt of the licensee's written response, both complaint and response shall be considered by the screening panel of the board for appropriate action including dismissal, investigation or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) If a reasonable cause violation determination is made by the screening panel, the Montana Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken.

(5) The screening panel shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter may be dismissed for lack of sufficient information. (History: 37-50-203, MCA; IMP, 37-1-308, 37-1-309, MCA; NEW, 1997 MAR p. 540, Eff. 3/25/97; TRANS, from Commerce, 2005 MAR p. 2668.)

Rules 24.201.2402 through 24.201.2409 reserved

24.201.2410 ENFORCEMENT AGAINST LICENSEES (1) The following terms shall be cause for imposition of disciplinary action:

(a) failure on the part of a holder of a certificate, license or permit to maintain compliance with the requirements for issuance of a certificate, license or annual permit including failure to comply with the profession monitoring rules of subchapter 11;

(b) violation of any of the provisions of Title 37, chapter 50, MCA, or rules promulgated by the board;

(c) performance of any fraudulent act while holding a certificate, license or permit issued under Title 37, chapter 50, MCA;

(d) failure to meet the continuing education requirements established by the board; or

(e) failure to respond to correspondence from the board, or to comply with orders of the board. (History: 37-1-131, 37-1-136, 37-1-319, 37-50-203, MCA; IMP, 37-1-136, 37-1-316, 37-1-319, MCA; NEW, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1990 MAR p. 584, Eff. 3/30/90; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 1998 MAR p. 463, Eff. 2/13/98; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)

24.201.2411 ENFORCEMENT PROCEDURES - INVESTIGATIONS

(1) The board may designate any person not a board member to serve as the enforcement coordinator to conduct or coordinate an investigation. During the investigative process, the report of the enforcement coordinator or designated investigator, the testimony and documents gathered in the investigation and the pendency of the investigation shall be treated as confidential information by the board and its designees, and shall not be disclosed except to the extent deemed necessary in order to conduct the investigation or in compliance with 37-1-135, MCA, for the public's right to know provided by Article II, section 9 of the Montana Constitution.

(2) The board may request assistance from permit holders having appropriate experience and competence to review reports submitted by the positive enforcement coordinator, or submitted under the profession monitoring rules of subchapter 11, in the determination of reasonable cause for the board to initiate disciplinary proceedings. (History: 37-1-136, 37-1-319, 37-50-203, MCA; IMP, 37-1-136, 37-1-316, 37-1-319, MCA; NEW, 1984 MAR p. 961, Eff. 6/29/84; AMD, 1986 MAR p. 1500, Eff. 9/12/86; AMD, 1997 MAR p. 540, Eff. 3/25/97; AMD, 2004 MAR p. 2916, Eff. 12/3/04; TRANS, from Commerce, 2005 MAR p. 2668.)